

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26**

**AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION**

and

Case 26-CA-23289

TEAMSTERS, LOCAL 984

MOTION FOR DEFAULT JUDGMENT

Counsel for the General Counsel (hereafter "General Counsel"), pursuant to Sections 102.20, 102.24, 102.50, 102.54, and 102.56 of the Board's Rules and Regulations, Series 8, as amended, moves that the proceedings in the above-captioned case be transferred to the Board for consolidation and final determination on the basis of the pleadings previously filed. Attached to this Motion as exhibits, and incorporated herein by reference, are copies of the Order Consolidating Complaint and Compliance Specification and Notice of Hearing and other relevant documents described below.

General Counsel further moves that, upon transfer of the proceedings to the Board, the Board issue an appropriate order to show cause why this Motion should not be granted, and that unless Respondent shows good cause for failing to file an answer within the time specified by Sections 102.20 and 102.56 of the Board's Rules and Regulations, all the allegations contained in Order Consolidating Complaint and Compliance Specification and Notice of Hearing be deemed to be admitted true and an order entered providing for an appropriate remedy, without holding a hearing or without

taking evidence in support of the allegations in the Order Consolidating Complaint and Compliance Specification.

In support of this Motion, General Counsel alleges and shows as follows:

1. On January 30, 2009, the Union filed a charge against Shirlo, Incorporated d/b/a Speer Products, Incorporated alleging, among other things, that Respondent unilaterally changed its personal leave and vacation policies in violation of Section 8(a)(5) of the Act. The charge was served on Respondent on January 30, 2009. A copy of the charge and the affidavit of service are attached as Exhibits 1 and 2, respectively.

2. On April 21, 2009, the Union filed a first amended charge against Shirlo, Incorporated d/b/a Speer Products, Incorporated adding allegations that Respondent laid off employee Ronald Gatewood in violation of Section 8(a)(3) of the Act and failed to provide information in violation of Section 8(a)(5) of the Act. The first amended charge was served on Respondent on April 22, 2009. A copy of the first amended charge and the affidavit of service are attached as Exhibits 3 and 4, respectively.

3. On May 27, 2009, the Union filed a second amended charge naming only Respondent as the charged party in this case. The second amended charge was served on Respondent on May 27, 2009. A copy of the second amended charge and the affidavit of service are attached as Exhibits 5 and 6, respectively.

4. On June 30, 2009, Respondent was served with a copy of a Complaint and Notice of Hearing (hereafter "Complaint") setting a hearing in this case for

September 3, 2009. Respondent filed an Answer to the Complaint on July 13, 2009. A copy of the Complaint, the affidavit of service and Respondent's Answer are attached as Exhibits 7, 8 and 9, respectively.

5. By letter dated August 12, 2009, Respondent withdrew its Answer to the Complaint, confirmed its understanding that General Counsel intended to file a combined complaint and compliance specification and advised that it would not file an answer to the combined complaint and compliance specification. A copy of Respondent's letter is attached as Exhibit 10.

6. On August 19, 2009, the Regional Director issued an order approving Respondent's request to withdraw its Answer to the Complaint and indefinitely postponing the scheduled hearing. A copy of the Order and the affidavit of service are attached as Exhibits 11 and 12, respectively.

7. On September 30, 2009, a copy of the Order Consolidating Complaint and Compliance Specification and Notice of Hearing (hereafter "Consolidated Complaint and Compliance Specification") was sent by certified mail to Respondent. The Consolidated Complaint and Compliance Specification and the affidavit of service are attached as Exhibits 13 and 14, respectively.

8. By email correspondence dated September 30, 2009, Respondent indicated that it would not be filing an answer to the Consolidated Complaint and Compliance Specification. A copy of the email is attached as Exhibit 15.

9. To date, no answer to the Consolidated Complaint and Compliance Specification has been filed nor has Respondent indicated that it intends to file an answer.

10. Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

11. Section 102.56(a) of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

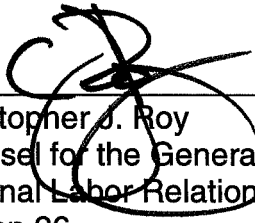
Each respondent alleged in the specification to have compliance obligations shall, within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

12. Respondent, having been duly served, has failed and refused to file an answer to the Consolidated Complaint and Compliance Specification. Therefore, all allegations in the Consolidated Complaint and Compliance Specification must be deemed admitted as true and no issue of fact exists warranting or requiring a hearing.

Accordingly, General Counsel submits that the matter is appropriate for final determination upon summary judgment without a hearing and that a final order should

be entered in accordance with the allegations of the Consolidated Complaint and Compliance Specification, without taking evidence or giving Respondent further notice.

October 28, 2009



Christopher J. Roy
Counsel for the General Counsel
National Labor Relations Board,
Region 26
80 Monroe Avenue, Suite 350
Memphis, Tennessee 38103

Attachments

INDEX OF EXHIBITS

- Exhibit 1 Original Charge filed on January 30, 2009.
- Exhibit 2 Affidavit of Service of Charge dated January 30, 2009.
- Exhibit 3 First Amended Charge filed on April 21, 2009.
- Exhibit 4 Affidavit of Service of First Amended Charge dated April 22, 2009.
- Exhibit 5 Second Amended Charge filed on May 27, 2009.
- Exhibit 6 Affidavit of Service of Second Amended Charge dated May 27, 2009.
- Exhibit 7 Complaint and Notice of Hearing dated June 30, 2009.
- Exhibit 8 Affidavit of Service of Complaint and Notice of Hearing dated June 30, 2009.
- Exhibit 9 Respondent's Answer to the Complaint and Notice of Hearing dated July 13, 2009.
- Exhibit 10 August 12, 2009 letter from Respondent's attorney David P. Jaqua to Ronald K. Hooks, Regional Director.
- Exhibit 11 Order Approving Withdrawal of Respondent's Answer and Indefinitely Postponing the Hearing dated August 19, 2009.
- Exhibit 12 Affidavit of Service of Order Approving Withdrawal of Respondent's Answer and Indefinitely Postponing the Hearing dated August 19, 2009.
- Exhibit 13 Order Consolidating Complaint and Compliance Specification and Notice of Hearing dated September 30, 2009.
- Exhibit 14 Affidavit of Service of Order Consolidating Complaint and Compliance Specification and Notice of Hearing dated September 30, 2009.
- Exhibit 15 Email from Respondent's attorney David P. Jaqua to Christopher J. Roy, Counsel for the General Counsel.

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2009, a copy of Counsel for the General Counsel's Motion for Default Judgment was filed by e-filing with the Executive Secretary's Office on the Board's website.

I further certify that on October 28, 2009, a copy of Counsel for the General Counsel's Motion for Default Judgment was served by email on the following:

David P. Jaqua, Attorney
Butler, Snow, O'Mara, Stevens & Canada, PLLC
6075 Poplar Avenue, Suite 500
P.O. Box 171443
Memphis, TN 38187-1443

Email: david.jaqua@butlersnow.com

Edward Houston, Secretary Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Email: EdH984@aol.com

Samuel Morris, Attorney
Godwin, Morris, Laurenzi & Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

Email: smorris@gmlblaw.com



Christopher J. Roy
Counsel for the General Counsel

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

26-CA-23289

Date Filed

1/30/2009

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Shirlo, Incorporated d/b/a Speer Products, Incorporated		b. Tel. No. (901)362-1950 1324
		c. Cell No. () -
		f. Fax No. () -
		g. e-Mail
d. Address (Street, city, state, and ZIP code) 4242 B.F. Goodrich Boulevard Memphis TN 38118-	e. Employer Representative Mark George Plant Manager	h. Number of workers employed 88
i. Type of Establishment (factory, mine, wholesaler, etc.) Factory	j. Identify principal product or service Pesticides	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In November 2008, the Employer unilaterally changed its personal leave policy without bargaining with the Union.
In December 2008, the Employer unilaterally changed its vacation policy without bargaining with the Union.
Since December 2008, the Employer has refused to hear any grievances filed by the Union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Teamsters, Local 984

4c. Address (Street and number, city, state, and ZIP code)

3020 Sandbrook Street

Memphis

TN 38116-

4a. Tel. No.
(901)398-23294b. Cell No.
() -4d. Fax No.
(901)396-1091

4e. e-Mail

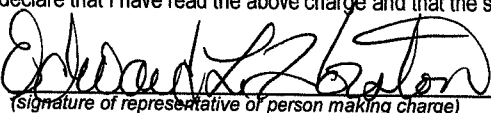
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Teamsters, Local 984

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By


(signature of representative of person making charge)

Edward Houston, Secretary-Treasurer

(Print/type name and title or office, if any)

Tel. No.
(901)398-2329Office, if any, Cell No.
() -Fax No.
(901)396-1091

e-Mail

Address Same as above.

01/30/09

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

26-2009-0204

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXH. 1

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**Shirlo, Incorporated d/b/a Speer Products,
Incorporated**

Charged Party

and

Teamsters, Local 984

Charging Party

Case 26-CA-23289

DATE OF MAILING January 30, 2009

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I depose and say that on the date indicated above, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Mark George, Plant Manager
Shirlo, Incorporated d/b/a Speer
Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Mr. Edward Houston, Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116


Carolyn Hobson

DESIGNATED AGENT

NATIONAL LABOR RELATIONS BOARD

Subscribed to and sworn to before me this
30th day of January 2009.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case

26-CA-23289

Date Filed

April 21, 2009

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Shirlo, Incorporated d/b/a Speer Products, Incorporated

b. Telephone No.

(901)362-1950 Ext. 1324

b. Cell No.

d. Address (street, city, state ZIP code)

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a Speer Products,
Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

e. Employer Representative

Mr. Mark George

f. Fax No.

g. e-Mail

h. Number of workers employed

20-25

i. Type of Establishment (factory, mine, wholesaler, etc.)
Factoryj. Identify principal product or service
Pesticides

k. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In November 2008, the Employer unilaterally changed its personal leave policy without bargaining with the Union. In December 2008, the Employer unilaterally changed its vacation policy without bargaining with the Union. Since December 2008, the Employer has refused to hear any grievances filed by the Union. About February 1, 2009, the Employer laid off its employee, Ronald Gatewood, in retaliation for his union and/or protected concerted activities. Since about February 20, 2009, the Employer has refused to provide the Union with requested information.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Teamsters, Local 984

4a. Address (street and number, city, state, and ZIP code)

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

4b. Telephone No.

(901)398-2329

4c. Cell No.

4d. Fax No.

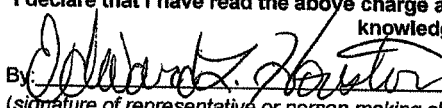
(901)396-1091

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Teamsters

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By: 
(signature of representative or person making charge)

Secretary-Treasurer

Print name and title

4/21/09
(date)

Address: Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Tel. No. 614

901 360 398-2329

Office, if any, Cell No.

Fax No.

901 396 1091

e-Mail

edh984@aol.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXH. 3

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**Shirlo, Incorporated d/b/a Speer Products,
Incorporated**

Charged Party,

and

Teamsters, Local 984,

Charging Party

Case **26-CA-23289**

DATE OF MAILING April 22, 2009

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I depose and say that on the date indicated above, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Mark George, Plant Manager
Shirlo, Incorporated d/b/a Speer Products,
Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Mr. Bart N. Sisk, Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Suite 500
PO Box 171443
Memphis, TN 38187-1443



Carolyn Hobson

DESIGNATED AGENT

NATIONAL LABOR RELATIONS BOARD

Subscribed to and sworn to before me
on this 22nd day of April, 2009.

EXH.4

Form NLRB - 501 (2-08)

FORM EXEMPT UNDER 44 U.S.C. 3512

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**SECOND AMENDED CHARGE AGAINST
EMPLOYER**

DO NOT WRITE IN THIS SPACE

Case

26-CA-23289

Date Filed

5/27/2009

INSTRUCTIONS:

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Aerosol Specialties, LLC

b. Telephone No.

(901)362-1950 Ext. 1324

b. Cell No.

d. Address (street, city, state ZIP code)

Mr. Mark George
Plant Manager
Aerosol Specialties, LLC
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

e. Employer Representative

Mr. Mark George

f. Fax No.

g. e-Mail

h. Number of workers employed

20-25

i. Type of Establishment (factory, mine, wholesaler, etc.)
Factory/Factory

j. Identify principal product or service
Pesticides

k. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In November 2008, the Employer unilaterally changed its personal leave policy without bargaining with the Union. In December 2008, the Employer unilaterally changed its vacation policy without bargaining with the Union. Since December 2008, the Employer has refused to hear any grievances filed by the Union. About February 1, 2009, the Employer laid off its employee, Ronald Gatewood, in retaliation for his union and/or protected concerted activities. Since about February 20, 2009, the Employer has refused to provide the Union with requested information.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Teamsters, Local 984

4a. Address (street and number, city, state, and ZIP code)

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

4b. Telephone No.

(901)398-2328

4c. Cell No.

4d. Fax No.

(901)396-1091

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

8 DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By

(signature of representative or person making charge)

Secretary-Treasurer

Print name and title

Address: Teamsters, Local 984
3020 Sandbrook Street Memphis, TN 38116

5/22/09
(date)

Tel. No.

Office, if any, Cell No.
901-398-2328.

Fax No. 901-396-1091

e-Mail

edh984@aol.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXH. 5

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Aerosol Specialties, LLC

Charged Party,

and

Teamsters, Local 984,

Charging Party

Case 26-CA-23289

DATE OF MAILING May 27, 2009

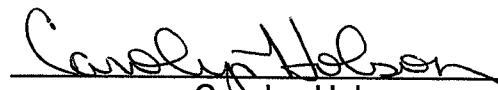
AFFIDAVIT OF SERVICE OF SECOND AMENDED CHARGE AGAINST EMPLOYER

I depose and say that on the date indicated above, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Mark George, Plant Manager
Shirlo, Incorporated d/b/a Speer
Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Mr. Bart N. Sisk, Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Suite 500
PO Box 171443
Memphis, TN 38187-1443


Carolyn Hobson

DESIGNATED AGENT

NATIONAL LABOR RELATIONS BOARD

Subscribed to and sworn to before me
on this 27th day of May, 2009.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26**

**AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION**

and

Case 26-CA-23289

TEAMSTERS, LOCAL 984

COMPLAINT AND NOTICE OF HEARING

Teamsters, Local 984, herein called the Union, has charged that Aerosol Specialties, LLC, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Based thereon, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1.

(a) The charge in this proceeding was filed by the Union on January 30, 2009 and a copy was served by regular mail on Respondent on January 30, 2009.

(b) The first amended charge in this proceeding was filed by the Union on April 21, 2009 and a copy was served by regular mail on Respondent on April 22, 2009.

(c) The second amended charge in this proceeding was filed by the Union on May 27, 2009 and a copy was served by regular mail on Respondent on May 27, 2009.

2.

At all material times, Respondent, a Delaware corporation with an office and place of business in Memphis, Tennessee, has been engaged in the manufacture of pet insecticides and/or chemical specialty products.

3.

(a) During the 12-month period ending May 31, 2009, Respondent, in conducting its business operations described above in paragraph 2, sold and shipped from its Memphis, Tennessee facility goods valued in excess of \$50,000 directly to points located outside the State of Tennessee.

(b) During the 12-month period ending May 31, 2009, Respondent, in conducting its business operations described above in paragraph 2, purchased and received at its Memphis, Tennessee facility goods valued in excess of \$50,000 directly from points located outside the State of Tennessee.

4.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tom Kirkpatrick	-	Interim CEO
Mark George	-	Plant Manager
Dave Lichtle	-	Human Resources Manager (until about January 20, 2009)

7.

The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All production, general maintenance, warehouse, compounding and quality control employees employed by Respondent at its Memphis, Tennessee facility.

Excluded: All executives, office clerical employees, professional and technical employees, plant engineers, salesmen, guards and supervisors as defined in the Act.

8.

On August 20, 1974, the Union was certified in Case 26-RC-4830 as the exclusive collective-bargaining representative of the Unit and since about December 21, 2007, has been recognized as the exclusive collective-bargaining representative of the Unit by Respondent. This recognition was embodied in a collective-bargaining agreement effective from September 1, 2008 through August 31, 2009.

9.

At all times since August 20, 1974, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

10.

(a) In about November 2008, a more exact date being unknown to General Counsel, Respondent unilaterally changed its personal leave policy.

(b) In about December 2008, a more exact date being unknown to General Counsel, Respondent unilaterally changed its vacation leave policy.

11.

(a) The subjects set forth above in paragraph 10 relate to wages, hours and other terms and conditions of employment of the Unit and are mandatory subjects for purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraph 10 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

12.

By the conduct described above in paragraph 11, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

13.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an Order requiring Respondent to: (1) make whole the affected Unit employees for loss of earnings and other benefits resulting from Respondent's failure to pay them for vacation

and personal leave time; and (2) pay interest compounded on a quarterly basis for all backpay owed in this matter. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 14, 2009, or postmarked on or before July 13, 2009**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on E-Gov, then click on the E-Filing link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable or some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT at 9 a.m. on **September 3, 2009** and on consecutive days thereafter until concluded, a hearing will be conducted in the hearing room, National Labor Relations Board, 80 Monroe Avenue, Suite 350, Memphis, Tennessee, before an administrative law judge of the National Labor

Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: June 30, 2009

A handwritten signature in black ink, appearing to read "RK Hooks", is written over a horizontal line.

Ronald K. Hooks, Regional Director
National Labor Relations Board
Region 26
80 Monroe Avenue, Suite 350
Memphis, TN 38103-2416

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Aerosol Specialties, LLC, Debtor-in-Possession
Case 26-CA-23289

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a Speer Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Mr. Bart N. Sisk
Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Suite 500
PO Box 171443
Memphis, TN 38187-1443

Mr. Samuel Morris
Attorney
Godwin, Morris, Laurenzi & Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26

AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION

and

TEAMSTERS, LOCAL 984

Case 26-CA-23289 ✓

DATE OF MAILING June 30, 2009

AFFIDAVIT OF SERVICE OF

Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid mail upon the following persons, addressed to them at the following addresses:

Served by certified mail:

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a Speer Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

CERTIFIED MAIL# 7008 0150 0001 3696 6268

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

CERTIFIED MAIL# 7008 0150 0001 3696 6275

Served by regular mail:

Mr. Bart N. Sisk
Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Suite 500
PO Box 171443
Memphis, TN 38187-1443

Mr. Samuel Morris
Attorney
Godwin, Morris, Laurenzi & Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

Subscribed and sworn to before me on

June 30, 2009

DESIGNATED AGENT - Ann Ralph



NATIONAL LABOR RELATIONS BOARD

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26

AEROSOL SPECIALITIES, LLC,

Debtor-In-Possession,

and

Case 26-CA-23289

TEAMSTERS, LOCAL 984

ANSWER

COMES NOW Respondent, Aerosol Specialties, LLC, through counsel, and answers the Complaint as follows:

FIRST DEFENSE

The alleged dispute between the Union and Respondent is purely a contract dispute over the terms of Article 20-A(Personal Leave) and Article 21 (Vacation Scheduling) of the collective bargaining agreement which does not arguably violate the National Labor Relations Act ("The Act"). The National Labor Relations Board (the "Board") has no plenary authority to administer and enforce collective bargaining contracts and therefore lacks jurisdiction to decide the dispute.

SECOND DEFENSE

The Complaint fails to state a claim upon which relief can be granted under the Act.

THIRD DEFENSE

The only "personal leave policy" and "vacation leave policy" which have existed are the above-referenced Articles of the Collective Bargaining Contract, and Respondent states that it has not violated those contractual provisions. Respondent further states that its administration of matters of personal leave and vacation have been in accordance with the contract terms and therefore contractually privileged.

FOURTH DEFENSE

Respondent answers the separately numbered paragraphs of the complaint as follows:

1. (a) Respondent admits.
(b) Respondent admits.
(c) Respondent admits.

2. Respondent admits except it states that its business is the manufacture of chemical specialty products.

- 3. (a) Respondent admits.
- (b) Respondent admits.

4. Respondent admits.

5. Respondent admits.

6. Respondent admits.

7. Respondent admits.

8. Respondent admits.

9. Respondent admits.

- 10. (a) Respondent denies.
- (b) Respondent denies.

11. (a) Respondent denies and further states that the only "personal leave policy" is that embodied in the specific terms of the Collective Bargaining Agreement and Respondent is not required to further bargain over those agreed-upon terms.

(b) Respondent states that the only "vacation leave policy" is that embodied in the specific terms of the Collective Bargaining Agreement and Respondent is not required to further bargain over those agreed-upon terms.

12. Respondent denies.

13. Respondent denies.

All allegations of the complaint which have not been specifically admitted or denied above are hereby **DENIED**.

WHEREFORE, having answered the complaint and set forth its affirmative defenses, Respondent respectfully submits that the complaint should be dismissed in its entirety with prejudice.

s/ David P. Jaqua

**DAVID P. JAQUA (TN Bar No. 05340)
BUTLER, SNOW, O'MARA, STEVENS
& CANNADA, PLLC**

Crescent Center

6075 Poplar Avenue, Suite 500

Memphis, Tennessee 38119

Telephone: (901) 680-7343

Facsimile: (901) 680-7201

E-Mail: david.jaqua@butlersnow.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically using the E-Filing system on the 13th day of July, 2009, which shall send notification to:

Ronald K. Hooks
Regional Director
National Labor Relations Board, Region 26
80 Monroe Avenue, Suite 350
Memphis, TN 38103

and via U.S. Mail, postage prepaid upon:

Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Samuel Morris
Godwin, Morris, Laurenzi & Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

s/ David P. Jaqua

DAVID P. JAQUA

BUTLER | SNOW

August 12, 2009

Via e-mail Ronald.hooks@nlrb.gov
& U.S. Mail

Ronald K. Hooks, Regional Director
National Labor Relations Board, Region 26
80 Monroe Avenue, Suite 350
Memphis, TN 38103

RE: Aerosol Specialties, LLC, Debtor-In-Possession and Teamsters, Local 984
Case No. 26-CA-23289

Dear Mr. Hooks:

On behalf of Aerosol Specialties, LLC, and in accordance with recent discussions with your office, Respondent hereby withdraws the answer which I filed on its behalf on July 13, 2009, a copy of which is attached. We understand that upon withdrawal of the answer, Counsel for the General Counsel intends to file a consolidated complaint and compliance specification. We will not answer the complaint/compliance specification, and we understand that the General Counsel will then file a motion for default judgment and pursue that claim in the United States Bankruptcy Court for the Western District of Tennessee.

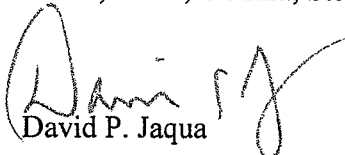
We also understand that you will issue an order indefinitely postponing the September 3, 2009 hearing.

I would appreciate your confirmation of the above.

With best regards, I am

Sincerely yours,

Butler, Snow, O'Mara, Stevens & Cannada, PLLC



David P. Jaqua

DPJ/sw
enclosure

cc: Christopher Roy (via e-mail only Christopher.roy@nlrb.gov)

Post Office Box 171443
Memphis, TN 38187-1443

DAVID P. JAQUA
901.680.7343
david.jaqua@butlersnow.com

Crescent Center
6075 Poplar Avenue, 5th Floor
Memphis, TN 38119

T 901.680.7200 • F 901.680.7201 • www.butlersnow.com
BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC

EXH. 10

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
TWENTY-SIXTH REGION**

**AEROSOL SPECIALITIES, LLC,
DEBTOR-IN-POSSESSION**

CASE 26-CA-23289

TEAMSTERS, LOCAL 984

**ORDER APPROVING WITHDRAWAL OF RESPONDENT'S ANSWER AND
INDEFINITELY POSTPONING THE HEARING**

**Respondent's requests to withdraw its Answer is hereby approved
and the hearing in the above-captioned case, scheduled to commence on
September 3, 2009, is hereby Indefinitely Postponed.**

Dated: August 19, 2009



**Ronald K. Hooks, Director, Region 26
National Labor Relations Board
80 Monroe Avenue, Suite 350
Memphis, TN 38103-2416**

EXH. 11

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26

AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION

and

TEAMSTERS, LOCAL 984

Case 26-CA-23289 ✓

DATE OF MAILING August 19, 2009

AFFIDAVIT OF SERVICE OF **Order Approving Withdrawal of Respondent's Answer and Indefinitely Postponing the Hearing, dated 8/19/09**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) **by facsimile and post-paid mail** upon the following persons, addressed to them at the following addresses:

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a Speer Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Regular mail only

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Fax: 901-396-1091

Mr. Bart N. Sisk
Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Suite 500
PO Box 171443
Memphis, TN 38187-1443

Fax: 901-680-7201


Mr. Samuel Morris
Attorney
Godwin, Morris, Laurenzi & Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

Fax: 901-528-0246

Subscribed and sworn to before me on

August 19, 2009

DESIGNATED AGENT - Ann Ralph



NATIONAL LABOR RELATIONS BOARD

EXH. 12

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26**

**AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION**

and

Case 26-CA-23289

TEAMSTERS, LOCAL 984

**ORDER CONSOLIDATING COMPLAINT AND
COMPLIANCE SPECIFICATION, AND NOTICE OF HEARING**

Teamsters, Local 984, herein called the Union, has charged that Aerosol Specialties, LLC, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. The General Counsel, by the undersigned, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay, HEREBY ORDERS, pursuant to Section 102.54 of the Rules and Regulations, Series 8, as amended, of the National Labor Relations Board, herein called the Board, that this case be, and it hereby is consolidated for hearing on the merits of the charge and issuance of a compliance specification.

This case being consolidated for the purposes described above, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the Board, issues this Order Consolidating Complaint and Compliance Specification, and Notice of Hearing, and alleges as follows.

COMPLAINT

1.

(a) The charge in this proceeding was filed by the Union on January 30, 2009 and a copy was served by regular mail on Respondent on January 30, 2009.

(b) The first amended charge in this proceeding was filed by the Union on April 21, 2009 and a copy was served by regular mail on Respondent on April 22, 2009.

(c) The second amended charge in this proceeding was filed by the Union on May 27, 2009 and a copy was served by regular mail on Respondent on May 27, 2009.

2.

At all material times, Respondent, a Delaware corporation with an office and place of business in Memphis, Tennessee, has been engaged in the manufacture of pet insecticides and/or chemical specialty products.

3.

(a) During the 12-month period ending May 31, 2009, Respondent, in conducting its business operations described above in paragraph 2, sold and shipped from its Memphis, Tennessee facility goods valued in excess of \$50,000 directly to points located outside the State of Tennessee.

(b) During the 12-month period ending May 31, 2009, Respondent, in conducting its business operations described above in paragraph 2, purchased and received at its Memphis, Tennessee facility goods valued in excess of \$50,000 directly from points located outside the State of Tennessee.

4.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

5.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tom Kirkpatrick	-	Interim CEO
Mark George	-	Plant Manager
Dave Lichtle	-	Human Resources Manager (until about January 20, 2009)

7.

The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All production, general maintenance, warehouse, compounding and quality control employees employed by Respondent at its Memphis, Tennessee facility.

Excluded: All executives, office clerical employees, professional and technical employees, plant engineers, salesmen, guards and supervisors as defined in the Act.

8.

On August 20, 1974, the Union was certified in Case 26-RC-4830 as the exclusive collective-bargaining representative of the Unit and since about December 21, 2007, has been recognized as the exclusive collective-bargaining representative of the Unit by Respondent. This recognition was embodied in a collective-bargaining agreement effective from September 1, 2008 through August 31, 2009.

9.

At all times since August 20, 1974, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

10.

(a) In about November 2008, a more exact date being unknown to General Counsel, Respondent unilaterally changed its personal leave policy.

(b) In about December 2008, a more exact date being unknown to General Counsel, Respondent unilaterally changed its vacation leave policy.

11.

(a) The subjects set forth above in paragraph 10 relate to wages, hours and other terms and conditions of employment of the Unit and are mandatory subjects for purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraph 10 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

12.

By the conduct described above in paragraph 11, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

13.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

COMPLIANCE SPECIFICATION

14.

The daily pay of the Unit employees named in Appendix A attached hereto is calculated by multiplying the employee's hourly rate, as set forth in Appendix A, times 8 hours.

15.

(a) Based on the collective-bargaining agreement between Respondent and the Union, Unit employees are entitled to earn and take personal leave. It has been Respondent's established past practice to pay Unit employees who take personal leave at their regular daily pay rate.

(b) Between November 15, 2008 and July 2, 2009, the Unit employees named in Appendix A used the number of personal leave days set forth opposite each of their names.

(c) The personal leave pay owed to Unit employees is determined by multiplying the daily pay of a Unit employee by the number of personal leave days the employee used.

(d) The Unit employees named in Appendix A are entitled to personal leave pay in the amounts set forth in Appendix A.

16.

Summarizing the facts and calculations specified above, the obligation of Respondent to make whole employees for the violations alleged in the Complaint will be discharged by payment to them of the amount set opposite their names on Appendix A, plus interest accrued to the date of payment. Based on the specifications set forth in paragraphs 14 through 15 and as shown in Appendix A, Respondent's liability totals **\$2,980.16**, plus interest.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an Order requiring Respondent to: (1) make whole the affected Unit employees for loss of earnings and other benefits resulting from Respondent's failure to pay them for vacation and personal leave time; and (2) pay interest compounded on a quarterly basis for all backpay owed in this matter. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint and compliance specification. The answer must be **received by this office on or before October 21, 2009, or postmarked on or before October 20, 2009**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that such answer be signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed. See Section 102.56(a). If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to this consolidated complaint and compliance specification is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within the Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint and compliance specification are true. If the answer fails to deny allegations of the compliance specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the compliance specification are true and preclude Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT at 9 a.m. on **November 2, 2009**, and on consecutive days thereafter until concluded, a hearing will be conducted in the hearing room, National Labor Relations Board, 80 Monroe Avenue, Suite 350, Memphis, Tennessee, before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint and compliance specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: September 30, 2009



Ronald K. Hooks, Regional Director
National Labor Relations Board
Region 26
80 Monroe Avenue, Suite 350
Memphis, TN 38103-2416

Attachments

Appendix A

			Hourly		Personal			
			Rate of		Leave	Personal Leave		
			Pay	Daily Pay	Days	Pay Due	Interest	Total Backpay
Employee Name					Used			
1	Lurline	Brown	10.51	84.08	2.00	168.16	4.19	172.35
2	Dorothy	Briars	10.51	84.08	1.00	84.08	2.09	86.17
3	Ron	Gatewood	16.03	128.24	4.00	512.96	12.77	525.73
4	Ann	Golden	11.37	90.96	1.00	90.96	2.26	93.22
5	Roberin	Golden	11.37	90.96	7.00	636.72	15.85	652.57
6	Frederick	Hurt	18.05	144.40	2.00	288.80	7.19	295.99
7	Dorothy	Mack	13.96	111.68	3.00	335.04	8.34	343.38
8	Dorothy	Moss	10.51	84.08	1.00	84.08	2.09	86.17
9	Ruthie	Nelson	10.51	84.08	3.00	252.24	6.28	258.52
10	Ann	Robertson	12.65	101.20	1.00	101.20	2.52	103.72
11	Letha	Scott	11.20	89.60	1.00	89.60	2.23	91.83
12	Doris	Threatt	10.51	84.08	2.00	168.16	4.19	172.35
13	Glenda	Threatt	10.51	84.08	2.00	168.16	4.19	172.35
TOTAL						2,980.16	74.21	3,054.37

law judge, as appropriate. Issuance of a compliance specification shall not be a prerequisite or bar to Board initiation of proceedings in any administrative or judicial forum which the Board or the Regional Director determines to be appropriate for obtaining compliance with a Board order.

Sec. 102.55 *Contents of compliance specification.*

(a) *Contents of specification with respect to allegations concerning the amount of backpay due.*—With respect to allegations concerning the amount of backpay due, the specification shall specifically and in detail show, for each employee, the backpay periods broken down by calendar quarters, the specific figures and basis of computation of gross backpay and interim earnings, the expenses for each quarter, the net backpay due, and any other pertinent information.

(b) *Contents of specification with respect to allegations other than the amount of backpay due.*—With respect to allegations other than the amount of backpay due, the specification shall contain a clear and concise description of the respects in which the respondent has failed to comply with a Board or court order, including the remedial acts claimed to be necessary for compliance by the respondent and, where known, the approximate dates, places, and names of the respondent's agents or other representatives described in the specification.

(c) *Amendments to specification.*—After the issuance of the notice of compliance hearing but prior to the opening of the hearing, the Regional Director may amend the specification. After the opening of the hearing, the specification may be amended upon leave of the administrative law judge or the Board, as the case may be, upon good cause shown.

Sec. 102.56 *Answer to compliance specification.*

(a) *Filing and service of answer; form.*—Each respondent alleged in the specification to have compliance obligations shall, within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

(b) *Contents of answer to specification.*—The answer shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.*—If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Aerosol Specialties, LLC, Debtor-in-Possession
Case 26-CA-23289

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a Speer Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

Mr. Bart N. Sisk
Attorney
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
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Mr. Samuel Morris
Attorney
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50 N. Front Street, Suite 800
Memphis, TN 38103

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26

AEROSOL SPECIALTIES, LLC,
DEBTOR-IN-POSSESSION

and

TEAMSTERS, LOCAL 984

Case 26-CA-23289 ✓

DATE OF MAILING September 30, 2009

AFFIDAVIT OF SERVICE OF Order Consolidating Complaint and Compliance Specification and Notice of Hearing (w/forms NLRB-4338 & 4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) **by post-paid mail** upon the following persons, addressed to them at the following addresses:

By Certified Mail:

Mr. Mark George
Plant Manager
Shirlo, Incorporated d/b/a
Speer Products, Incorporated
4242 B.F. Goodrich Boulevard
Memphis, TN 38118

7007 3020 0000 6412 3926

Mr. Edward Houston
Secretary-Treasurer
Teamsters, Local 984
3020 Sandbrook Street
Memphis, TN 38116

7007 3020 0000 6412 3933

By Regular Mail:

Mr. Bart N. Sisk, Attorney
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Cannada, PLLC
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PO Box 171443
Memphis, TN 38187-1443

Mr. Samuel Morris, Attorney
Godwin, Morris, Laurenzi &
Bloomfield, P.C.
50 N. Front Street, Suite 800
Memphis, TN 38103

Subscribed and sworn to before me on

September 30, 2009

DESIGNATED AGENT - Ann Ralph



NATIONAL LABOR RELATIONS BOARD

EXH. 14

Roy, Christopher

From: David Jaqua [David.Jaqua@butlersnow.com]
Sent: Wednesday, September 30, 2009 9:17 AM
To: Roy, Christopher
Subject: RE: Aerosol Specialties (Case 26-CA-23289)

That is correct—we will not answer the complaint/specification.

David P. Jaqua

Butler, Snow, O'Mara, Stevens & Cannada, PLLC
Direct: (901) 680-7343

Fax: (901) 680-7201
david.jaqua@butlersnow.com

BUTLER | SNOW



6075 Poplar Avenue,
Suite 500
Memphis, TN 38119

P.O. Box 171443
Memphis, TN 38187

From: Roy, Christopher [mailto:Christopher.Roy@nlrb.gov]
Sent: 2009-09-30 09:15
To: David Jaqua
Subject: Aerosol Specialties (Case 26-CA-23289)

Good morning. We will be issuing the complaint/compliance specification ("complaint") today and are currently in the process of selecting a trial date. I am writing to confirm the representation in your August 12, 2009 letter that the Employer will not answer the complaint.

Chris Roy
(901) 544-0024

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EXH. 15

10/22/2009